

Union Calendar No. 525

106TH CONGRESS
2D SESSION

H. R. 3100

[Report No. 106-872]

To amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 19, 1999

Mr. FRELINGHUYSEN introduced the following bill; which was referred to the Committee on Commerce

SEPTEMBER 20, 2000

Additional sponsors: Mr. GILCHREST, Mr. SALMON, Mr. FRANKS of New Jersey, Mr. LOBIONDO, Mr. PETRI, Mr. LATOURETTE, Mrs. EMERSON, Mr. BASS, Mr. MCHUGH, Mr. HILLIARD, Mr. COOK, Mr. UPTON, Mr. KUYKENDALL, Ms. BERKLEY, Mr. CASTLE, Mr. GREENWOOD, Mr. LATHAM, Mr. QUINN, Mr. HORN, Mr. REGULA, Mr. BILBRAY, Mr. FRANK of Massachusetts, Mr. MORAN of Virginia, Mr. GEJDENSON, Mr. KUCINICH, Mr. MINGE, Mr. DUNCAN, Mr. CLEMENT, Mr. ROTHMAN, Mr. GANSKE, Mr. LUCAS of Kentucky, Mr. MEEKS of New York, Mr. BRADY of Pennsylvania, Mr. LARSON, Mr. CAMP, Ms. CARSON, Ms. MILLENDER-McDONALD, Mr. BACA, Mr. GOODLING, Mr. SOUDER, Mr. DAVIS of Virginia, Mr. DICKEY, Mr. PAYNE, Mr. METCALF, Mr. PETERSON of Minnesota, Ms. MCKINNEY, Mr. PASCRELL, Mr. PALLONE, Mr. NEY, Mr. WATKINS, Mr. HILLEARY, Mr. EVANS, Mr. HOBSON, Mr. WAMP, Mr. CRAMER, Ms. RIVERS, Mr. TAUZIN, and Mr. SHERMAN

SEPTEMBER 20, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 19, 1999]

A BILL

To amend the Communications Act of 1934 to prohibit telemarketers from interfering with the caller identification service of any person to whom a telephone solicitation is made, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Know Your Caller Act*
 5 *of 2000”.*

6 **SEC. 2. PROHIBITION OF INTERFERENCE WITH CALLER**
 7 **IDENTIFICATION SERVICES.**

8 *Section 227 of the Communications Act of 1934 (47*
 9 *U.S.C. 227) is amended—*

10 *(1) by redesignating subsections (e) and (f) as*
 11 *subsections (f) and (g), respectively; and*

12 *(2) by inserting after subsection (d) the following*
 13 *new subsection:*

14 *“(e) PROHIBITION ON INTERFERENCE WITH CALLER*
 15 *IDENTIFICATION SERVICES.—*

16 *“(1) IN GENERAL.—It shall be unlawful for any*
 17 *person within the United States, in making any tele-*
 18 *phone solicitation—*

1 “(A) to interfere with or circumvent the ca-
2 pability of a caller identification service to ac-
3 cess or provide to the recipient of the telephone
4 call involved in the solicitation any information
5 regarding the call that such service is capable of
6 providing; and

7 “(B) to fail to provide caller identification
8 information in a manner that is accessible by a
9 caller identification service, if such person has
10 capability to provide such information in such a
11 manner.

12 *For purposes of this section, the use of a telecommuni-*
13 *cations service or equipment that is incapable of*
14 *transmitting caller identification information shall*
15 *not, of itself, constitute interference with or cir-*
16 *cumvention of the capability of a caller identification*
17 *service to access or provide such information.*

18 “(2) *REGULATIONS.*—*Not later than 6 months*
19 *after the enactment of the Know Your Caller Act of*
20 *2000, the Commission shall prescribe regulations to*
21 *implement this subsection, which shall—*

22 “(A) specify that the information regarding
23 a call that the prohibition under paragraph (1)
24 applies to includes—

1 “(i) the name of the person or entity
2 who makes the telephone call involved in the
3 solicitation;

4 “(ii) the name of the person or entity
5 on whose behalf the solicitation is made;
6 and

7 “(iii) a valid and working telephone
8 number at which the person or entity on
9 whose behalf the telephone solicitation is
10 made may be reached during regular busi-
11 ness hours for the purpose of requesting that
12 the recipient of the solicitation be placed on
13 the do-not-call list required under section
14 64.1200 of the Commission’s regulations (47
15 CFR 64.1200) to be maintained by such
16 person or entity; and

17 “(B) provide that any person or entity who
18 receives a request from a person to be placed on
19 such do-not-call list may not use such person’s
20 name and telephone number for telemarketing,
21 mail marketing, or other marketing purpose (in-
22 cluding transfer or sale to any other entity for
23 marketing use) other than enforcement of such
24 list.

1 “(3) *PRIVATE RIGHT OF ACTION.*—A person or
2 entity may, if otherwise permitted by the laws or
3 rules of court of a State, bring in an appropriate
4 court of that State—

5 “(A) an action based on a violation of this
6 subsection or the regulations prescribed under
7 this subsection to enjoin such violation;

8 “(B) an action to recover for actual mone-
9 tary loss from such a violation, or to receive
10 \$500 in damages for each such violation, which-
11 ever is greater; or

12 “(C) both such actions.

13 *If the court finds that the defendant willfully or*
14 *knowingly violated this subsection or the regulations*
15 *prescribed under this subsection, the court may, in its*
16 *discretion, increase the amount of the award to an*
17 *amount equal to not more than 3 times the amount*
18 *available under subparagraph (B) of this paragraph.*

19 “(4) *DEFINITIONS.*—For purposes of this sub-
20 section:

21 “(A) *CALLER IDENTIFICATION SERVICE.*—

22 *The term ‘caller identification service’ means*
23 *any service or device designed to provide the user*
24 *of the service or device with the telephone number*
25 *of an incoming telephone call.*

1 “(B) *TELEPHONE CALL.*—The term ‘tele-
 2 phone call’ means any telephone call or other
 3 transmission which is made to or received at a
 4 telephone number of any type of telephone service
 5 and includes telephone calls made using the
 6 Internet (irrespective of the type of customer
 7 premises equipment used in connection with such
 8 services). Such term also includes calls made by
 9 an automatic telephone dialing system, an inte-
 10 grated services digital network, and a commer-
 11 cial mobile radio source.”.

12 **SEC. 3. EFFECT ON STATE LAW AND STATE ACTIONS.**

13 (a) *EFFECT ON STATE LAW.*—Subsection (f)(1) of sec-
 14 tion 227 of the Communications Act of 1934 (47 U.S.C.
 15 227(f)(1)), as so redesignated by section 2(1) of this Act,
 16 is further amended by inserting after “subsection (d)” the
 17 following: “and the prohibition under paragraphs (1) and
 18 (2) of subsection (e),”.

19 (b) *ACTIONS BY STATES.*—The first sentence of sub-
 20 section (g)(1) of section 227 of the Communications Act of
 21 1934 (47 U.S.C. 227(g)(1)), as so redesignated by section
 22 2(1) of this Act, is further amended by striking “telephone
 23 calls” and inserting “telephone solicitations, telephone calls,
 24 or”.

1 **SEC. 4. STUDY REGARDING TRANSMISSION OF CALLER**
2 **IDENTIFICATION INFORMATION.**

3 *The Federal Communications Commission shall con-*
4 *duct a study to determine—*

5 *(1) the extent of the capability of the public*
6 *switched network to transmit the information that*
7 *can be accessed by caller identification services;*

8 *(2) the types of telecommunications equipment*
9 *being used in the telemarketing industry, the extent of*
10 *such use, and the capabilities of such types of equip-*
11 *ment to transmit the information that can be accessed*
12 *by caller identification services; and*

13 *(3) the changes to the public switched network*
14 *and to the types of telecommunications equipment*
15 *commonly being used in the telemarketing industry*
16 *that would be necessary to provide for the public*
17 *switched network to be able to transmit caller identi-*
18 *fication information on all telephone calls, and the*
19 *costs (including costs to the telemarketing industry)*
20 *to implement such changes.*

21 *The Commission shall complete the study and submit a re-*
22 *port to the Congress on the results of the study, not later*
23 *than one year after the date of the enactment of this Act.*

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